

EFFECTS OF MIGRATION ON EMPLOYMENT POLICY AND THE COORDINATION OF SOCIAL SECURITY SYSTEMS

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INTRODUCTION

The greater population movements and migrations have been cyclically occurring, recurrent motives in the history. These population movements are usually the causes or signs of greater social political changes. It is enough to think about the end of the Roman Ages or even the events of the Hungarian conquest. We are talking about an important element of the processes of a transforming tendency (even it is not a world tendency). Loss and enrichment occurred in these eras at the same time. These phenomena recur during the world history, but always in different scenes.

The causes are often different, however, they had almost the same effects on the affected medium in all eras. We can usually talk about such events, acts and effects that exceed the threshold of the persons concerned, they lose the rest of their connections to the certain country or city temporary or permanently, and then they start off toward a better future. They go forward a place where they suggest (but do not know surely) that the experienced negative effects will not catch them. Although, in these cases, we do not talk about only individual motivations. The individual motivations could be the indicators of the others' individual motivations which may finally cause the community will. Currently it does not matter whether we are talking about a war situation or economic hopelessness, mass psychology works in the same way: a common traumatic experience develops. To such a traumatic experience that can be experienced independently from the mass concerned. The mass may not have influence on it, or they think they do not have influence to face with the trauma. The traumatic experiences, the runaway from hopelessness and the slightly illusory hope of a better life feeds the movements of these masses. We should not refer to only the refugees arriving from Syria, but the European immigrants arriving from the East as well. Due to partly the identity of the examined legal and social situation, and partly some simplifications, I will mark the examined refugees and the immigrants arriving from the East uniformly by the phrase of migrant or immigrant in this current study. I will highlight one or another group where the discussion of the topic requires it.

Some people says migration is a continuously presenting phenomenon, only its level changes by the eras.¹ It seems to be confirmed by the fact that even the European Union itself has found the key of its own competitiveness in promoting migration within its borders by some of its regulations. To be its tool, it created the legal institution of the four fundamental freedoms, including the right to free movement of the employees and later all the persons, and the coordination of the social insurance rules.²

A kind of duality characterizes the European Union from the aspect of migration: opened internal borders but closed external borders. The reason for this can be searched in that Europe took its new role as not an issuer, but a possible target of immigrations in the middle of the XX century.³ The dual policy of the EU can be observed well, which is liberal with the members of the community, but requires serious conditions from the citizens from a third country.

This duality as protectionist policy has worked successfully until recently. Although, recently the pressure on the external borders has increased in such a degree that could not be hold back by the member states, and hundred thousands of immigrants have arrived to the area of the EU from North-Africa and Asia Minor, and mainly to Germany. Because of this, new questions arise both on social and legal side.

The political rhetoric was confused by these people and such voices have raised that can see the solution of the social problems of the aging continent in the masses as future production tools who ensure the currently active generations' later pension by contributions.

Even if we do not deal with that how certain political statements and countries are related to migration, we should examine its effects on a pan-European level, and actually such questions arise that will be in connection with employment and social service systems and their maintenance.

1. Migration waves if they meet

Another important element should be underlined to be able to examine the suggestions above. It is important that currently we are talking about two different migration processes in Europe. One is the migration from

¹ Pócza I. A jelenlegi migrációs hullám okai. URL: <http://www.migraciokutato.hu/hu/2015/09/10/a-jelenlegi-migracios-hullam-okai/>.

² Jakab N. Az Európai Unió szociálpolitikájának alapjai az elsődleges és másodlagos jogforrásokban, avagy az Európai Unió szociálpolitikájának fejlődése. *Publicationes Universitatis Miskolcensis*. Sectio Juridica et Politica, 2007. Tomus 25/1. P. 337–354.

³ Krizsán B. Az Európai Unió és a migráció – Belső szabadság, külső elzárkózottság. *De iurisprudentia et iure publico*. 2008. № 2. P. 2.

the south to the north as mentioned above.⁴ The other is the migration from the east to the west which developed primarily after the regime change. It has been becoming greater after the connection of the new member states since 2004. The effect of this dualism will affect primarily the old member states of the Union, since the target of both migration waves is West Europe. The employment and the social system of the affected countries will get into the crossfires of questions to be answered. The affected countries and the EU will have to face with the sudden labour oversupply on the market, but this will not solve the problems of unemployment. So, the dualism which draws up the increase of brain drain and the unemployment of the citizens at home⁵ will change a little. The practice of brain drain will continue, and it causes employment political problems primarily for those states from where the drain happens.

Conflicts will mainly occur on the saturated labour market. The citizens of the affected country have had to compete only with the East-European immigrants, but now they have to compete with the refugees arriving from Africa as well. Even so, we can talk about a direct and an indirect manifestation of the occurring conflicts. Direct conflicts will develop primarily between the immigrants arriving from the two directions, since they represent the same layer in the affected societies, and the direct competition for the positions will happen between them. The indirect conflict can happen between all the migrants and the citizens. The essence of this conflict may be the stagnation or deterioration of the working conditions achieved. The suddenly increased manpower offer will affect negatively on the achieved collective labour law results, and even on the later negotiations on the wages, since cheaper immigrated manpower can be found easily. But it is also important to understand that the immigrants, arriving from any directions, do not mean an automatic solution for the decreasing the ratio of unemployment in the western countries or even in the EU.

The aboves can be illustrated in the best way through the example of Germany. There are some areas, including Portugal, from where mainly skilled workers arrive, and not the graduates.⁶ In connection with this,

⁴ Besenyő J. Migrációs útvonalak. *Európa és a migráció: tanulmánykötet* / J. Besenyő, P. Miletics, B. Orbán (szerk.). Budapest : Zrínyi Kiadó, 2019. P. 31–64.

⁵ Gellérné Lukács É., Illés S. Migrációs politikák és jogharmonizáció. *Központi Statisztikai Hivatal*. Budapest, 2005. P. 37–38.

⁶ A migráció és a magyar migránsok jellemzői 1999–2011 – Tendenciák és a migránsok profilja a KSH Munkaerőfelmérés adatai alapján, MTA Közgazdasági és Regionális Tudományi Kutatóközpont, Műhelytanulmányok / Á. Czibik et al. MT – DP. 2014. № 4. 25 p. URL: <http://econ.core.hu/file/download/mtdp/MTDP1404.pdf>.

another research highlights that one of the most general characteristic of migration is that three quarter of the emigrants from our country are men, and the half of them are under 35 years-old, nearly half of them are skilled workmen, and with those graduated in vocational secondary education, nearly three quarter of the migrants have qualified secondary degree.⁷

Two, relatively new factors mean the modification of this situation mentioned above. One factor is that the amount of qualified manpower who could emigrate will decrease permanently, since a significant amount of shortage of labour has developed in our country as well. The other is that, in my opinion, there are no data about the qualification of the immigrants arriving from south, so the integration of these people requires greater energy. Naturally, the significant difference which makes difference between the migration arriving from the south or the east also contributes to these. The most significant difference is that migration from the east is voluntary, and its frames are greatly influenced by the right to the free movements provided by the EU and the coordination of social insurance. Migration from the south is primarily a compulsion, which has been caused by the war situation in Syria, so the motivation and the qualification of this personal layer is completely different. But, of course, the statement of a background study made by the UN should also be added, which greatly shades the image: *“Many refugees are unable to get their academic and professional qualifications and past work experience recognized by governments and professional associations due to loss or lack of relevant documentation, no access to formalized processes of certification and accreditation or because of stringent requirements for re-accreditation that might require contact with the authorities of the country of origin, which in the case of refugees is not an option. They might also be unfamiliar with available recruitment, training or job placement services and programs. As a result, many end up being unemployed or underemployed”*.⁸

Of course, motivation and the deepness of integration are connecting topics. Motivation, working and integration are less problematic issues in case of the East-European immigrants, since they arrive from nearly the same culture. In case of the refugees coming from Africa and Asia Minor the motivation is mostly the compulsion mentioned above, which will

⁷ Hárs Á., Simon D. A munkaerő-migráció változása a képezés években Magyarországon – Vizsgálat a Munkaerőfelmérés adatai alapján. Budapesti Munkagazdaságtani Füzetek. BWP. 2015. № 2. 25 p.

⁸ United Nations High Commissioner for Refugees: Menekültintegráció Közép- Európában : Háttéranyag. 12 p. URL: http://www.unhcr-centraleurope.org/_assets/files/content/what_we_do/pdf_hu/promoting_integration/UNHCR-Integration_note-HUN_version-screen.pdf.

influence the level of integration.⁹ The question is whether they want, or they can adapt to a different culture than theirs. Most of the refugees plan to move back to home after the war that can result in a mildly intensive integration process. We should refer to that mainly the situation of the Turkish minority native to Germany has not been completely solved and the integration level imagined by the Germans has also not happened yet.¹⁰

The citizens' wanted/involuntary distinction of the certain country can be an important stop point between the two migrant groups. This origins primarily from the social distrust towards the Islamist immigrants that has been increased more and more by the recent terror attacks. The source of the conflict may be the discrimination of the refugees against the East-Europeans in the labour market, since the society still trusts in them more because of the same culture. So, the livelihood of a significant part of the refugees should be financed by the aid system that could be an additional source of conflicts between the majority society and the refugees.

Nevertheless, the arising problems will globally occur on the level of the EU in an appreciable way, including the employment policy of the EU and the issues of the social law regulation. Are the immigrants really capable to reach positive effect in ensuring the sustainability of the social systems and increasing the EU's competitiveness at least in a medium term? Will they bring back the cost of them as an investment to the budget of the state? These are questions for which we will try to find the answers years later. That's why I will try to underline primarily the effects associated with employment and the social insurance services in the rest of this study.

2. The right to free movement and the issue of employment

The right to free movement is one of the most important entitlements of the EU citizens. This is a directly enforceable entitlement that origins from the fact of the EU citizenship itself. Earlier, this legitimacy was not so unconditional. In the beginning of integration primarily the movement connecting to economic relationships were allowed, for example the free movement of employees.¹¹ This right has reached more wider recognition by

⁹ See more : Bartkó R. Az irreguláris migráció elleni küzdelem eszközei a hazai büntetőjogban. Budapest : Gondolat Kiadó, 2020.

¹⁰ About the topic in details : Löffler B. Integration in Deutschland – Zwischen Assimilation und Multikulturalismus. München : Oldenbourg Verlag, 2011. P. 249–267 ; Additionally, see the analyses of the daily press : Deutsch türken fühlen sich integriert, aber im Abseits. URL: <http://www.zeit.de/gesellschaft/2016-06/integration-tuerkische-muslime-deutschland>.

¹¹ Blutmann L. Az Európai Uniójoga a gyakorlatban. HVG-ORAC Kiadó. 2014. URL: http://www.tankonyvtar.hu/hu/tartalom/tamop425/2011_0001_548_EUjog/ch11s07.html.

the engrossment of integration, to which a more wider personal range reached the right to free movement. As it has been mentioned, this entitlement is deserved by a citizen of a member state who is also a citizen of the European Union. This is a significant ease for people who live in the 10 new, mainly East-European countries connected in 2004 and the citizens of the latterly connected Romania, Bulgaria and Croatia. By living with their EU right, they can work freely in the whole area of the European Union. They can present on the European labour market by owning the complete entitlement. Although, the right to free movement is not only the right of that the citizens could migrate freely between the countries, but it is a promoting tool of integration which has an important element called legal equality. In this regard, the Court of the European Union represents a significant position that occurs in the case No C-512/13 called Sopora case as well.¹²

In case of the other examined personal group, the right to free movement is not automatic, a double or multisided international agreement made by the European Union provides the right to free movement for refugees, asylum seekers, and people getting temporary protection who are exceptionally allowed to stay in a member state due to humanitarian reasons.¹³ That's why it matters whether a person is considered to be a refugee or an economic immigrant. Refugees are characterized by a wider entitlement system than the economic immigrants from the south. The latest ones are redirected to home, from where they have arrived. Nevertheless, a refugee does not have the same rights as an EU citizen. The refugee status is long-lasting, but it is considered to be a relative status, however, it is also true that it could be treated as the anteroom of achieving the EU citizenship with significant restrictions.

In any case, the right to free movement, even someone has it only in a limited form, has significant influence on certain countries' labour market.

On the other hand, if we examine migration, the right to free movement and the labour market together, than we should not deal with only those effects affecting on the recipient countries, but with effects on the "sending country" as well. Of course, these effects change with the personal groups in the study. In case of the refugees, the war in the background country has caused a catastrophic situation, where the employment and humanitarian crisis happen in the same time. There are numerous problems in the background countries of the East-European immigrants as well. Europe without borders provides opportunity for the migration of a significant amount of people,

¹² More details about the case : Prugberger T., Jakab N., Zaccaria M. Az Európai munkajog vázlat. Debrecen : Licium Art, 2016, 30 p.

¹³ Blutmann L. : i. m.

and a lot of them has taken it. A more and more noticeable employment crisis has developed in the background countries. The lack of manpower and unemployment are present at the same time also in Hungary. The lot of migrated professionals and employees departed with the hope of a better livelihood, and the current national employment policy tools are inefficient to decrease it. More Governmental Programs have not succeeded,¹⁴ so, according to the latest news, the promotion of the employment of people arriving from a third country in shortage professions is on the legislators' agenda.¹⁵

3. Coordination of social security systems

Although, the right to free movement itself would not be enough for the migration of greater masses. This process was promoted by the coordination of the social security systems, which was created by the EU legislators as an ordinance. The Coordination Ordinance was born in its first form in 1971. Its public aim was to promote migration inside the EU. Its basic idea was that the employee will move to another country to work if he and his family could feel themselves in relatively the same social security as there from where he had migrated.¹⁶ Accordingly, there are no differences between certain services in the western countries because of the similar standard of living. We are talking about services with increased cost compared to East Europe. This is also true if the Coordination Ordinance contains not the concrete rules, but the “appropriate” connecting principles. The opened borders and social security together are such causes that prompt lot of people to leave their current hopeless situation and start to try their luck.

The above-mentioned statement completely and primarily refers to the East European migrants who maximally take the opportunities provided by the EU. The refugees from the south have arrived primarily not because of the social service system, but because of escaping from the war situation. This changes the situation from the aspect that the personal

¹⁴ One of the best-known programs was the “Gyere haza fiatal!” (Come home, young man).

¹⁵ Béremeléssel és ukrán szakmunkásokkal kezelné az MGYOSZ a munkaerőhiányt. URL: <http://24.hu/fn/gazdasag/2016/06/23/beremelessel-es-ukran-szakmunkasokkal-kezelne-az-mgyosz-a-munkaerohiany/>; Messzmann T., Fedyuk O. Temporary Agency Work as a Form and Channel of Labour Migration in Hungary. URL: <http://library.fes.de/pdf-files/bueros/budapest/14597.pdf>; Bacsó R. A kárpátaljai lakosság otthon maradását segítő magyarországi támogatások hatása a magyarság migrációs hajlandóságának csökkentésében; Glossa Iuridica : jogi szakmai folyóirat. 2019. №№ 3–4. P. 271–284.

¹⁶ Jakab N., Mélypataki G., Szekeres B. A szociálpolitika jogi alapjai a XXI. század társadalmi kihívásainak tükrében. Miskolc : Bíbor Kiadó, 2017. 111. p.; Access to healthcare in cross-border situations / G. Strban (ed.) et al. URL: http://publicatio.bibl.u-szeged.hu/11728/1/FreSsco_AR2016_Cross-borderHC_20170210FINAL.pdf.

scope of the Coordination ordinance defines the beneficiaries wide enough. The range of the beneficiaries include the EU citizen and his family independently from their status, and those third persons, who are legally in the area of the EU. Mostly because of this latest rule it is important to clarify the terms connecting to migration arriving from the south. Those who are considered to be refugees among the arriving people, they and their families are legally in the area of the EU. Although, who are decided to be economic immigrants, they do not get legal residence permission.

Based on the aboves, it automatically prevails in case of people arriving from other EU countries, while in case of people from third countries, one of the conditions is the legal residence, and the other is that their way of life does not affect only one member state. Of course, the latest moment will bring up several questions, such as when such a person or family can be considered to have a way of life that does not affect only one member state. But these questions can arise only if the conditions of legal residence have already been fulfilled. The authorities of the certain member states are not in an easy situation in defining this, since a lot of people have arrived to Europe without papers. We will be able to get an approximate image about the real number of the refugees by the foreigners' office procedures. The effect of the southern migration is delayed from the aspect of coordination.

In regards of the eastern migration, primarily the social insurance systems of the left countries feel the fewer contributors and the more difficult financial viability. These effects will cause the transformation and decrease of the services in a medium and long term. Primarily, pension and pension-like services will significantly transform. The problems of maintaining the system will influence the pay-off between the certain systems for such services as international pension.

CONCLUSIONS

Based on the aboves, migration is such a social phenomenon that generates numerous legally relevant questions on the market of manpower and social services. Of course, the nature of migration determines the questions as well. The questions are different in case of the refugees and the economic immigrants. Of course, it is different in case of persons inside and outside the EU. But one thing is sure: currently all the migration movements are going to the west, so the western member states will meet the problems at first. The secondary and tertiary effects will affect the certain left countries.

The elements of humanitarian law, employment and aid are mixed in the primary questions, and the labour market problems of the East European countries in regards of the secondary effects.

The phenomena are different in the east and west. On the East, the question is the further operation of the social systems in the light of the decreasing active population. On the other hand, the growing active-aged population should be treated on the west besides the appropriate integration processes.

It will be later when the answers will be born, but it is sure that it will significantly influence the current social systems of Europe.

SUMMARY

Migration, as a continuous social phenomenon, is part of European history. The extent of this varies from time to time. The perception of migratory waves varies from time to time. The European Union also has a double standard. It supports intra-EU migration. It treats it as an employment policy issue. And migration from the outside is primarily a foreign policy and humanitarian issue in a large percentage of cases.

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